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5

6 **UNITED STATES DISTRICT COURT**  
7 **CENTRAL DISTRICT OF CALIFORNIA**  
8 **EASTERN DIVISION**

9 JESS WHISENHUNT,  
10 Plaintiff,

11 vs.

12  
13 COLLECTION BUREAU OF THE  
14 HUDSON VALLEY, INC.,  
15 Defendant.

Case No.:

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**VIOLATIONS OF THE FDCPA 15 U.S.C. §  
1692 et seq.**

16  
17 **I. INTRODUCTION**

18 1. Jess Whisenhunt ("Plaintiff") bring this action against Collection Bureau of the  
Hudson Valley, Inc. ("Defendant") for violations of the Fair Debt Collection Practices Act  
19 ("FDCPA"), 15 U.S.C. § 1692 et. seq., which prohibits debt collectors from engaging in abusive,  
20 deceptive and unfair practices in connection with the collection of consumer debts, as well as for  
21 illegal invasions of Plaintiff's privacy.

22 **II. JURISDICTION**

- 23 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d).  
24 3. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.  
25

1           4.       Venue and personal jurisdiction in this District are proper because Plaintiff  
2 resides in this District, Defendant's collection communications were received by Plaintiff within  
3 this District and Defendant does or transacts business within this District.

4  
5                                   **III.    PARTIES**

6           5.       Plaintiff is a natural person residing in Riverside County, California.

7           6.       Plaintiff is a natural person from whom a debt collector seeks to collect a  
8 consumer debt which is due and owing or alleged to be due and owing from such person. Thus,  
9 Plaintiff is a "debtor" as defined by the FDCPA 15 U.S.C. §1692a.

10          7.       Defendant is located in Newburgh, New York and regularly transacts business  
11 throughout the United States. This Defendant may be served with process through headquarters  
12 at 155 N Plank Road, Newburgh, NY 12550.

13          8.       In the ordinary course of business, regularly, on behalf of itself or others,  
14 Defendant engages in debt collection. Thus, Defendant is a "debt collector" as defined by the  
15 FDCPA, 15 U.S.C. § 1692a(6).

16          9.       Defendant's business includes, but is not limited to, collecting on unpaid,  
17 outstanding account balances.

18          10.      The principal purpose of Defendant's business is the collection of debts allegedly  
19 owed to third parties.

20          11.      Within the last year, Defendant attempted to collect a consumer debt from  
21 Plaintiff.

22          12.      The debt that Defendant is attempting to collect on is an alleged obligation of a  
23 consumer to pay money arising out of a transaction in which the money, property, insurance or  
24 services which are the subject of the transaction are primarily for personal, family, or household  
25 purposes, whether or not such obligation has been reduced to judgment.

          13.      Defendant regularly collects, or attempts to collect, debts allegedly owed to third  
parties.

1           14. During the course of its attempts to collect debts allegedly owed to third parties,  
2 Defendant sends to alleged debtor bills, statements, and/or other correspondence, via the mail  
3 and/or electronic mail, and initiates contact with alleged debtors via various means of  
4 telecommunication, such as by telephone and facsimile.

5           15. Defendant acted through its agents, employees, officers, members, directors,  
6 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

7           16. Plaintiffs will seek leave to amend this Complaint to add Defendants as soon as it  
8 reasonably learns of them.

#### 9   IV. FACTUAL ALLEGATIONS

10           17. On or about May 14, 2015 Plaintiff received a dunning letter from Defendant  
11 collecting on a debt allegedly owed to Seventh Avenue. The creditor account number assigned to  
12 this account as 998487342570 and reference number 151297551. *See copy of dunning letter*  
13 *attached as Exhibit A.*

14           18. Upon information and belief, Plaintiff has did not open an account with Seventh  
15 Avenue.

16           19. Plaintiff's son, James Preston Whisenhunt, owed an alleged debt to Seventh  
17 Avenue.

18           20. On or about October 2013, James Preston Whisenhunt received a dunning letter  
19 from Seventh Avenue account number 9984873422570. *See copy of dunning letter attached as*  
20 *Exhibit B.*

21           21. Upon information and belief, Plaintiff was not a co-signer on the Seventh Avenue  
22 account.

23           22. Upon information and belief, Plaintiff was not an authorized user on the Seventh  
24 Avenue account.

25           23. On July 6, 2015, James Preston Whisenhunt filed for Chapter 7 bankruptcy and  
assigned Case No. 6:15-bk-16770-MH.

          24. James Preston Whisenhunt included Seventh Avenue account number  
9984873422570 in the list of creditors.

1           26.     On or about June 5, 2015, James Preston Whisenhunt contacted Defendant and  
2 informed a representative that his father, Plaintiff, received a collection letter for an account that  
3 was not his. Defendant stated that their collection activity would continue.

4  
5                           **V.     CAUSE OF ACTION**

6   **COUNT I**

7                   **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

8           27.     Plaintiff incorporates herein by reference all of the above paragraphs of this  
9 complaint as though fully set forth herein at length.

10          28.     Defendant violated the FDCPA. Defendant's violations include, but are not  
11 limited to, the following:

12           (a)     Defendant violated the FDCPA by collecting or attempting to collect a consumer  
13 debt without complying with the provisions of Sections 169

14                   2b to 1692j, inclusive, of . . . Title 15 of the United States Code (Fair Debt Collection  
15 Practices Act).

16                   (i)     Defendant violated 15 U.S.C. § 1692e(2)(A) by misrepresenting the  
17 character, amount or legal status of any debt;

18                   (ii)     Defendant violated 15 U.S.C. § 1692e(10) by using false, deceptive, or  
19 misleading representation or means in connection with the collection of the alleged debt; and

20                   (iii)    Defendant violated 15 U.S.C. § 1692f by using unfair or unconscionable  
21 means in connection with the collection of an alleged debt.

22          29.     Defendant's acts, as described above, were done intentionally with the purpose of  
23 coercing Plaintiff to pay the alleged debt.

24          30.     As a result of the foregoing violations of the FDCPA, Defendant is liable  
25 to Plaintiff for declaratory judgment that Defendant's conduct violated the FDCPA,  
actual damages, statutory damages, and attorney's fees and costs.

**VI.     PRAYER FOR RELIEF**

1 WHEREFORE, Plaintiff Jess Whisenhunt respectfully requests that judgment be entered  
2 against Defendant for the following:  
3

- 4 (a) Declaratory judgment that Defendant violated the FDCPA; and  
5 (b) Actual Damages pursuant to 15 U.S.C. 1692k(a)(1); and  
6 (c) Statutory damages of \$1,000.00 pursuant to 15 U.S.C. 1692k; and  
7 (d) Costs and reasonable attorney's fees pursuant to 15 U.S.C. 1692k(3)  
8 (e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be  
allowed under the law; and  
9 (f) For such other and further relief as the Court may deem just and proper.

10  
11 **VII. DEMAND FOR JURY TRIAL**

12 Please take notice that Plaintiff demands a trial by jury in this action.  
13

14 Dated: November 11, 2015

RESPECTFULLY SUBMITTED,

By: /s/ Stuart Price

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